

Application Serial No. 10/829,509
Attorney Docket No. 60027.0345US01/BS030284

REMARKS

This Amendment is in response to the Office Action dated May 15, 2006. Claims 1-28 were examined in the Office Action. Claims 1-28 were rejected. Examination and reconsideration based on this Amendment and the following remarks are respectfully requested.

Substance of Interview Summary

A telephonic interview occurred between the undersigned, Murrell Blackburn and Examiner James C. Kerveros on Friday, September 15, 2006. The interview covered the rejections to c Claims 1-6, 9, 14-19, 22, 27, and 28 were rejected under 35 U.S.C. 102(e) as being anticipated by Berndt et al. U.S. Patent No. 7,027,053 filed February 28, 2002 (hereinafter "Berndt").

The undersigned pointed out to the Examiner that Applicants' independent claim 1 recites (1) receiving a selection of a logical failover circuit from the displayed at least one logical failover circuit and (2) rerouting the data from the failed logical circuit to the selected logical failover circuit. In contrast, Berndt discloses establishing and displaying a failover data path but not receiving a selection of a failover data path from the displayed logical failover circuit as recited in claim 1. (See Berndt abstract and column 5, lines 3-12).

The undersigned also pointed out that amended claim 3 is patentably distinguishable over the cited art for at least the reason that it recites (1) after receiving a selection of the at least one logical failover circuit from the menu, determining whether a utilization of the selected logical failover circuit exceeds a threshold utilization, (2) if the utilization is less than the threshold utilization, then rerouting the logical circuit data from the failed logical circuit to the selected logical failover circuit, and (3) if the utilization exceeds the threshold utilization, then requesting the selection of an alternative logical failover circuit from the menu. Amended claim 16 has a similar recitation. Support for these amendments is at least found on page 22, lines 1-10 of the specification. In contrast, Berndt does not disclose amended claim 3 because the redundant data paths disclosed in the Background of Berndt do not disclose threshold utilization for an individually selected logical failover circuit. Redundant data paths available in a system are not analogous to a threshold utilization calculation for a logical failover circuit because redundant data paths do not involve a utilization calculation for a logical circuit. (See Berndt Background).

Application Serial No. 10/829,509
Attorney Docket No. 60027.0345US01/BS030284

The Examiner indicated that the amendment would likely overcome Berndt but he would need to conduct a new search. Specifically, the Examiner indicated that the arguments made by the undersigned have merit, however further examination and/or search is still required. This written response is thus, submitted in follow-up to the telephonic interview for consideration by the Examiner, as it is believed to have placed the application in condition for allowance.

Claim Rejections - 35 U.S.C. § 102

Claims 1-6, 9, 14-19, 22, 27, and 28 were rejected under 35 U.S.C. 102(e) as being anticipated by Berndt et al. U.S. Patent No. 7,027,053 filed February 28, 2002 (hereinafter "Berndt"). Applicants respectfully submit the Berndt does not teach each and every feature of independent claims 1, 14, and 28.

Claim 1

Applicants' claim 1 is drawn to a method for on demand selective rerouting of logical circuit data in a data network. The method involves, among other features, (1) receiving a selection of a logical failover circuit from the displayed at least one logical failover circuit and (2) rerouting the data from the failed logical circuit to the selected logical failover circuit.

In contrast, Berndt discloses establishing and displaying a failover data path but not receiving a selection of a failover data path from the displayed logical failover circuit as recited in claim 1. (See Berndt abstract and column 5, lines 3-12). Thus, Berndt does not teach, suggest, or contemplate using a graphical user interface to receive a selection of a failover data path. In fact, Berndt does not contemplate using a display or interface for anything but displaying textual and graphical information to the user. (See Berndt Fig. 3 and column 5, lines 13-20). Because establishing and displaying a failover data path does not disclose receiving a selection of logical failover circuit from the displayed failover circuit and rerouting data to the selected logical failover circuit, claim 1 is allowable over Berndt.

Claim 14

Applicants' claim 14 is also patentably distinguishable over the cited art for at least the reason that it recites a network management module, in communication with logical element module, for generating a menu displaying at least one logical failover circuit for rerouting data from the failed logical circuit, (2) receiving a selection of a logical failover circuit displayed in

Application Serial No. 10/829,509
Attorney Docket No. 60027.0345US01/BS030284

the menu, and (3) rerouting the data from the failed logical circuit to the selected logical failover circuit.

As described above with respect to claim 1, Berndt does not disclose generating a menu displaying a logical failover circuit, receiving a selection of a logical failover circuit, and rerouting to the selected logical failover circuit received as recited in claim 14. In fact, Berndt does not contemplate using a display or interface for anything but displaying textual and graphical information to the user. Thus, Berndt does not disclose receiving a menu selection and rerouting to the failover circuit that was menu selected. (See Berndt Fig. 3 and column 5, lines 13-20). Therefore, Applicants' claim 14 is also allowable over Berndt.

Claim 28

Claim 28 is drawn to a method of providing and selecting from a menu on a display in a computer system having a graphical user interface including the display and a user interface selection device, at least one logical failover circuit for rerouting data from a failed logical circuit. The method involves, among other features, (1) receiving an execution signal indicative of a user selecting a menu entry comprising the at least one logical failover circuit, and in response to the execution signal, rerouting the data from the failed logical circuit to the selected logical failover circuit.

For at least the reasons described above with respect to claims 1 and 14, Berndt does not disclose Applicants' claim 28. In fact, Berndt does not contemplate using a display or interface for anything but displaying textual and graphical information to the user.

The link 410 disclosed in Berndt only indicates a connection between target devices and not a link for selection by a user. (See Berndt Fig. 4 and column 5, lines 60-67). Also, the input device 214 including alphanumeric keys for communicating information and command selections is no indication that the input device is used to select a displayed failover circuit. The scope of the Berndt only discloses that a graphical user interface only indicates and failover and thus, does not receive a selection of a circuit from a user. (See Berndt title, abstract, and column 4, lines 42-45). Thus, Berndt does not disclose receiving a menu selection from a user and rerouting to the failover circuit that was menu selected as recited in claim 28. (See Berndt Fig. 3 and column 5, lines 13-20). Therefore, Applicants' claim 28 is also allowable over Berndt.

Dependent ClaimsClaims 3 and 16

Amended claim 3 is patentably distinguishable over the cited art for at least the reason that it recites (1) after receiving a selection of the at least one logical failover circuit from the menu, determining whether a utilization of the selected logical failover circuit exceeds a threshold utilization, (2) if the utilization is less than the threshold utilization, then rerouting the logical circuit data from the failed logical circuit to the selected logical failover circuit, and (3) if the utilization exceeds the threshold utilization, then requesting the selection of an alternative logical failover circuit from the menu. Amended claim 16 has a similar recitation. Support for these amendments is at least found on page 22, lines 1-10 of the specification.

In contrast, the Office Action states that "according to Berndt some systems may record failures in an error log... In this case, the claimed threshold corresponds to the redundant data paths available in a system." (See Office Action page 6, line 9-12). Applicants respectfully disagree and submit that Berndt does not disclose amended claim 3 because the redundant data paths disclosed in the Background of Berndt do not disclose threshold utilization for an individually selected logical failover circuit—~~Redundant data paths available in a system are not~~ analogous to a threshold utilization calculation for a logical failover circuit because redundant data paths do not involve a utilization calculation for a logical circuit. (See Berndt Background). Moreover, the threshold utilization is based on compiled historical utilization for logical circuits and thus, does not correspond to redundant data paths in a system. Thus, Berndt does not anticipate amended claim 3 because the number of data paths in a system does not determine the utilization a failover logical circuit is able to withstand as a threshold. Claim 16 has a similar recitation. Therefore claims 3 and 16 are allowable over Berndt for at least this reason.

Also, at least because dependent claims 2-6, and 9 and 15-19, 22 and 27 respectively incorporate the features of amended independent claims 1 and 14 dependent claims 2-6, and 9 and 15-19, 22 and 27 are allowable over Berndt.

Application Serial No. 10/829,509
Attorney Docker No. 60027.0345US01/BS030284

Claim Rejections - 35 U.S.C. § 103

Claims 7, 8, 10-13, 20, 21, and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Berndt in view of Heeren et al., U.S. Patent No. 6,311,288 (hereinafter "Hooron"). Dependent claims 7, 8, 10-13, 20, 21, and 23-26 are patentably distinguishable over the cited art for at least due to their dependency on independent claims 1 or 14. Thus, neither Berndt nor Hooron alone, or in combination teach or suggest each and every element of dependent claims 7, 8, 10-13, 20, 21, and 23-26. Accordingly, Applicants respectfully submit that these rejections are moot and request withdrawal of this rejection of dependent claims 7, 8, 10-13, 20, 21, and 23-26.

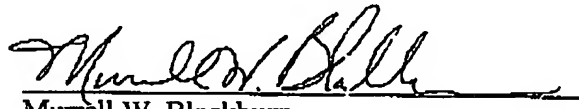
CONCLUSION

In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(404) 954-5100

Date: September 15, 2006


Murrell W. Blackburn
Reg. No. 50,881

39262

PATENT TRADEMARK OFFICE